

## EFFECTIVE DATE OF 1976 AMENDMENT

Section 3 of Pub. L. 94-450 provided that: "The amendments made by section 2 of this Act [amending this section] shall take effect five years after the date of enactment of this Act [Oct. 1, 1976] and shall not apply with respect to any article of merchandise which is sold by any manufacturer or importer before the effective date of such amendments."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 298, 299, 300 of this title.

**§ 296. Standard of fineness of silver articles; deviation**

In the case of articles of merchandise made in whole or in part of silver or any of its alloys so imported into or exported from the United States, or so deposited in the United States mails for transmission, or so delivered for transportation to any common carrier, or so transported or caused to be transported as specified in section 294 of this title, the actual fineness of the silver or alloy thereof of which such article is wholly or partly composed shall not be less by more than four one-thousandth parts than the actual fineness indicated by any mark (other than the word "sterling" or the word "coin") stamped, branded, engraved, or printed upon any part of such article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which such article is incased or inclosed; and that no such article or tag, card, or label attached thereto, or box, package, cover, or wrapper in which such article is incased or inclosed shall be marked, stamped, branded, engraved, or printed with the word "sterling" or "sterling silver" or any colorable imitation thereof, unless such article or parts thereof purporting to be silver contains nine hundred and twenty-five one-thousandth parts pure silver; and that no such article, tag, card, label, box, package, cover, or wrapper shall be marked, stamped, branded, engraved, or printed with the words "coin" or "coin silver" or colorable imitation thereof unless such article or parts thereof purporting to be silver contains nine hundred one-thousandth parts pure silver: *Provided*, That in the case of all such articles whose fineness is indicated by the word "sterling" or the word "coin" there shall be allowed a divergence in the fineness of four one-thousandth parts from the foregoing standards: *Provided*, That in any test for the ascertainment of the fineness of any such article mentioned in this section according to the foregoing standards the part of the article taken for the test, analysis, or assay shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior fineness used for brazing or uniting the parts of such article: *Provided further*, That in the case of any article mentioned in this section, in addition to the foregoing tests and standards, the actual fineness of the entire quantity of silver or of its alloys contained in such article, including all solder and alloy of inferior fineness used for brazing or uniting the parts of such article (all such silver, alloys, and solder being assayed as one piece), shall not be less by more than ten one-thousandth parts than the fineness indicated by

the mark stamped, branded, engraved, or imprinted upon such article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which such article is incased or inclosed, it being intended that the standards of fineness and the tests or methods for ascertaining the same provided in this section for articles mentioned therein shall be concurrent and not alternative.

(June 13, 1906, ch. 3289, §3, 34 Stat. 261.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 294, 298, 299, 300 of this title.

**§ 297. Stamping plated articles****(a) Words "sterling" or "coin" forbidden**

In the case of articles of merchandise made in whole or in part of an inferior metal, having deposited or plated thereon or brazed or otherwise affixed thereto a plating, covering, or sheet composed of gold or silver, or of an alloy of either of said metals, and known in the market as rolled gold plate, gold plate, gold filled, silver plate, or gold or silver electroplate, or by any similar designation, so imported into or exported from the United States, or so deposited in the United States mails for transmission, or so delivered to any common carrier, or so transported or caused to be transported as specified in section 294 of this title, no such article, nor any tag, card, or label attached thereto, nor any box, package, cover, or wrapper in which such article is encased or inclosed, shall be stamped, branded, engraved, or imprinted with any word or mark usually employed to indicate the fineness of gold, unless such word or mark be accompanied by other words, plainly indicating that such article or part thereof is made of rolled gold plate, gold plate, or gold electroplate, or is gold filled, as the case may be, and no such article, nor any tag, card, or label attached thereto, nor any box, package, cover, or wrapper in which such article is incased or inclosed, shall be stamped, branded, engraved, or imprinted with the word "sterling" or the word "coin", either alone or in conjunction with other words or marks.

**(b) Identifying trademark**

Whenever any person, firm, corporation, or association, being a manufacturer or dealer subject to section 294 of this title—

(1) applies or causes to be applied to any article of merchandise intended for sale or customarily sold as a complete product to consumers in any State, by stamping, branding, engraving, or otherwise, any quality mark or stamp indicating or purporting to indicate that such article is made in whole or in part of gold or silver or of an alloy of either such metal; or

(2) imports into any State any such article of merchandise bearing any such quality mark or stamp which indicates or purports to indicate that such article is made in whole or in part of gold or silver or of an alloy of either such metal,

such person, firm, corporation, or association, before depositing any such article manufactured

or imported after six months after the effective date of this Act in the United States mails, or causing such article to be so deposited, for transmission thereby, or delivering such article or causing such article to be delivered to any common carrier for transportation from one State to any other State, or transporting such article or causing such article to be transported from one State to any other State, shall—

(A) Apply or cause to be applied to that article a trademark of such persons, which has been duly registered or applied for registration under the laws of the United States within thirty days after an article bearing the trademark is placed in commerce or imported into the United States, or the name of such person; and

(B) if such article of merchandise is composed of two or more parts which are complete in themselves but which are not identical in quality, and any one of such parts bears such a quality mark or stamp, apply or cause to be applied to each other part of that article of merchandise a quality mark or stamp of like pattern and size disclosing the quality of that other part.

Each identifying trademark or name applied to any article of merchandise in compliance with clause (A) of this subsection shall be applied to that article by the same means as that used in applying the quality mark or stamp appearing thereon, in type or lettering at least as large as that used in such quality mark or stamp, and in a position as close as possible to that quality mark or stamp. For the purposes of this subsection, the term "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(June 13, 1906, ch. 3289, §4, 34 Stat. 261; Pub. L. 87-354, §1, Oct. 4, 1961, 75 Stat. 775; Pub. L. 91-366, §1(e), July 31, 1970, 84 Stat. 691.)

#### REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (b), as the first day of the third month beginning after Oct. 4, 1961, see Effective Date of 1961 Amendment note set out under this section.

#### AMENDMENTS

1970—Subsec. (b). Pub. L. 91-366 struck out reference to the trademark of a firm, corporation or association in cl. (A).

1961—Pub. L. 87-354 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1970 AMENDMENT

Section 4 of Pub. L. 91-366 provided that: "This Act [amending this section and sections 298 and 299 of this title and enacting provisions set out below] shall take effect three months after enactment [July 31, 1970]."

#### EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-354 provided that: "The amendments made by this Act [amending this section] shall take effect on the first day of the third month beginning after the date of enactment of this Act [Oct. 4, 1961]."

#### SEPARABILITY

Section 2 of Pub. L. 91-366 provided that: "If any provision of this Act [see Effective Date of 1970 Amend-

ment note above] or any amendment made thereby, or the application thereof to any person, as that term is herein defined, is held invalid, the remainder of the Act or amendment and the application of the remaining provisions of the Act or amendment to any person shall not be affected thereby."

#### CONSTRUCTION OF 1970 AMENDMENT

Section 3 of Pub. L. 91-366 provided that: "The provisions of this Act [see Effective Date of 1970 Amendment note above] and amendments made thereby shall be held to be in addition to, and not in substitution for or limitation of, the provisions of any other Act of the United States."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 298, 299, 300 of this title.

### § 298. Violations of law

#### (a) Criminal prosecutions; penalties; jurisdiction

Each and every person, firm, corporation, or association, being a manufacturer of or a wholesale or retail dealer in gold or silver jewelry, gold ware, silver goods, or silverware, who or which shall knowingly violate any of the provisions of sections 294 to 300 of this title, and every officer, manager, director, or managing agent of any such corporation or association having knowledge of such violation and directly participating in such violation or consenting thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which has been conducted the transportation of the article in respect to which such violation has been committed, shall be punished by a fine of not more than \$500 or imprisonment for not more than three months, or both, at the discretion of the court. Whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

#### (b) Suits by competitors, customers, or subsequent purchasers for injunctive relief; damages and costs

Any competitor, customer, or competitor of a customer of any person in violation of section 294, 295, 296, or 297 of this title, or any subsequent purchaser of an article of merchandise which has been the subject of a violation of section 294, 295, 296, or 297 of this title, shall be entitled to injunctive relief restraining further violation of sections 294 to 300 of this title and may sue therefor in any district court of the United States in the district in which the defendant resides or has an agent, without respect to the amount in controversy, and shall recover damages and the cost of suit, including a reasonable attorney's fee.

#### (c) Suits by jewelry trade associations for injunctive relief; damages and costs

Any duly organized and existing jewelry trade association shall be entitled to injunctive relief restraining any person in violation of section 294, 295, 296, or 297 of this title from further violation of sections 294 to 300 of this title and may